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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 CAROL M. COLEMAN,

12 Plaintiff,

13 vs.

14 MICHAEL J. ASTRUE, Commissioner of  
Social Security,

15 Defendant.

CASE NO. 11cv115-WQH (NLS)

ORDER

16 HAYES, Judge:

17 The matter before the Court is the Report and Recommendation filed by the Honorable  
18 Magistrate Judge Nita L. Stormes. (ECF No. 20).

19 **I. Background**

20 On September 21, 2007, Plaintiff filed an application for social security income.  
21 Plaintiff's was claim denied initially and upon reconsideration. On November 25, 2008, a  
22 hearing was held before an administrative law judge. On September 18, 2009, the ALJ issued  
23 a written decision finding that Plaintiff was not disabled. The ALJ's decision became the final  
24 decision of the Commissioner of Social Security when the Appeals Council denied Plaintiff's  
25 request for review.

26 On January 20, 2011, Plaintiff, represented by counsel, initiated this action by filing a  
27 Complaint for Review of Final Decision of the Commissioner of Social Security. (ECF No.  
28 1).

On August 12, 2011, Plaintiff filed a Motion for Summary Judgment. (ECF No. 12).

1 On October 14, 2011, Defendant filed a Cross- Motion for Summary Judgment and Opposition  
 2 to Plaintiff's Motion for Summary Judgment. (ECF Nos. 17-18). On October 27, 2011,  
 3 Plaintiff filed an Opposition to Defendant's Cross- Motion for Summary Judgment. (ECF No.  
 4 19).

5 On February 14, 2012, the Magistrate Judge issued the Report and Recommendation.  
 6 (ECF No. 20). The Report and Recommendation recommends that Plaintiff's Motion for  
 7 Summary Judgment be denied and Defendant's Cross-Motion for Summary Judgment be  
 8 granted. The Report and Recommendation concludes:

9 IT IS ORDERED that no later than February 29, 2012 any party  
 10 to this action may file written objections with the Court and serve a copy on  
 11 all parties. The document should be captioned "Objections to Report and  
 Recommendation."

12 IT IS FURTHER ORDERED that any reply to the objections shall be  
 13 filed with the Court and served on all parties no later than March 7, 2012. The  
 parties are advised that failure to file objections within the specified time may  
 waive the right to raise those objections on appeal of the Court's order.

14 *Id.* at 16 (citing *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991)).

15 The docket reflects that no objections to the Report and Recommendation have been  
 16 filed.

## 17 **II. Discussion**

18 The duties of the district court in connection with a report and recommendation of a  
 19 magistrate judge are set forth in Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b).  
 20 The district judge must "make a de novo determination of those portions of the report ... to  
 21 which objection is made," and "may accept, reject, or modify, in whole or in part, the findings  
 22 or recommendations made by the magistrate judge." 28 U.S.C. § 636(b). The district court  
 23 need not review de novo those portions of a Report and Recommendation to which neither  
 24 party objects. *See Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005); *United States*  
 25 *v. Reyna-Tapia*, 328 F.3d 1114, 1121-22 (9th Cir. 2003) (en banc).


26 A court "will disturb the denial of benefits only if the decision contains legal error or  
 27 is not supported by substantial evidence." *Tommasetti v. Astrue*, 533 F.3d 1035, 1038 (9th Cir.  
 28 2008) (quotation omitted).

1 After review of the Report and Recommendation, the written opinion of the ALJ, the  
2 administrative record, and the submissions of the parties, the Court concludes that the  
3 Magistrate Judge correctly recommended that Plaintiff's Motion for Summary Judgment be  
4 denied and Defendant's Cross-Motion for Summary Judgment be granted.

5 **III. Conclusion**

6 IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 20) is  
7 ADOPTED in its entirety. The Motion for Summary Judgment filed by Plaintiff (ECF No. 12)  
8 is DENIED. The Cross-Motion for Summary Judgment filed by Defendant (ECF No. 17) is  
9 GRANTED.

10 DATED: March 22, 2012

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12 **WILLIAM Q. HAYES**  
13 United States District Judge  
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